Himachal Pradesh Civil Judge (Mains) 2016 (II)

Paper II · Civil Law II · compulsory paper

Himachal Pradesh Judicial Services Main Examination 2016 (II) · 3 hours · 200 marks

Question Nos. 1 and 8 are compulsory. Attempt three questions from the rest. In all five questions are to be attempted. Write legibly quoting provisions of law and relevant case law. Each part of the question must be answered in sequence in the same continuation. Give reasons for your answer.

1. With the help of decided cases, discuss the following :

(a) Discuss the rule of 'exogamy' under Hindu Law. [10 Marks]

(b) Discuss the law relating to Redemption of portion of mortgaged property. [10 Marks]

(c) Discuss the consequences of "Subletting" of the tenancy. [10 Marks]

(d) Discuss in detail "Consideration of Privity" under the Indian Contract Act. [10 Marks]

2.

(a) Examine the basis of the restitution of conjugal rights and importance of a decree for restitution. Refer decided cases. [13 Marks]

(b) Write a comprehensive note on "Irretrievable breakdown of marriage" as a ground for matrimonial remedies. Refer to recent Supreme Court judgements. [14 Marks]

(c) Define the term "Insanity". Do you think that insanity is not a defence in divorce proceedings? Refer to case Law. [13 Marks]

3.

(a) 'A' contracted with 'B' to supply 'B' with 1000 tons of iron at Rs.100, a ton, to be delivered at a stated time, contract 'C' for the purchase of 1000 tons of iron at Rs, 80 a ton, telling 'C' that her requires so far the purpose of performing his contract in 'B', 'C' fails to perform, 'A' will be entitled to any damages ? [13 Marks]

(b) 'A' offer to sell 'B' a painting which 'A' knows is a 'Copy' of a well-known masterpiece, 'B' thinking that the N's painting is an original one and 'A' must be unaware of this, accept 'A' offer. Discuss the validity of the contract and also mention the relevant provisions of the Indian Contract Act. [13 Marks]

(c) Explain the principle of 'Unjust enrichment' under the provisions of section 70 of the Indian Contract Act. Refer to decided cases. [14 Marks]

4.

(a) With the help of' decided cases and illustrations discuss the "Rule of Survivorship" under Hindu Law. [14 Marks]

(b) 'A' was paid Rs, 10 lacs as sale tax by a firm under the H.P. Sales Tax Law on its forward transactions and subsequently to the payment, 'A' firm sought to recover back the tax, under section 72 of the Indian Contract Act, if yes, give your reasons. [13 Marks]

(c) Under what circumstances the fair rent can be increased under the H.P. Urban Rent Control Act, 1987 ? Refer to decided cases and illustrations. [13 Marks]

5.

(a) Discuss the law relating to restraint of legal proceedings under the Contract Act. What is difference between English Law and Indian Law ? [14 Marks]

(b) Discuss the meaning and nature of woman's estate. Whether she has power of alienation of estate ? What is effect of the Hindu Succession Act, 1956 ? Refer to decided cases. [13 Marks]

(c) 'A' filed suit for possession, against 'B' after expiry of the period of limitation. The defendant, did not take that defence in his written statement. Can the court take notice of the limitation and dismiss the suit ? Discuss. [13 Marks]

6.

(a) What are the tests for determining whether a lease of immovable property is granted for purpose of manufacturing process and on whom lies the burden to prove that the lease was for manufacturing purpose ? [13 Marks]

(b) What is the status of a lessee in occupation of property after the expiry of lease ? Is a notice under section 106 of the Transfer of Property Act, necessary before filing a suit for ejectment of that person ? Refer to recent decided cases. [14 Marks]

(c) Discuss the doctrine of election under TP Act. What is the difference between English Law and Indian Law in this regard ? [13 Marks]

7.

(a) "Limitation bars enforcement of a claim but does not extinguish it." Comment with illustrations. While going to the court for filing a suit Ramesh meets with an accident. As a consequence there of Ramesh remain unconscious for fifteen days. The period of limitation for filing the suit expires during this period. Can Ramesh claim extension of time ? Discuss. [14 Marks]

(b) What is the period of limitation prescribed under Criminal Procedure Code for (i) where the offence is punishable with fine only (ii) where the punishment prescribed exceeds one year but less than three years ? Do the provisions relating to limitation in Cr.P.C. apply to economic offences ? Are there any exceptions ? Discuss. [13 Marks]

(c) Whether the law relating to limitation is to be construed very strictly ? What is the latest trend of case law in this regard ? Cite the cases. [13 Marks]

8.

(a) Whether an agreement of lease between the landlord and the tenant for letting and occupation of a building in contravention of the provisions of the H.P. Urban Rent Control Act, 1987 is enforceable in law and can decree of eviction of the tenant be passed in favour of landlord on the basis there of? Support your answer. [13 Marks]

(b) Discuss the procedure of the "eviction tenant" under HPURC Act, 1987. Refer to decided cases. [13 Marks]

(c) With the help of decided cases, explain the following : (i) Execution of orders. [4 Marks] (ii) Power to make rules. [4 Marks] (iii) Determination of fair rent. [6 Marks]